



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Division of Technical and Administrative Support

4 (Amendment)

5 418 KAR 1:010. Definitions for 418 KAR Chapter 1.

6 RELATES TO: KRS 146.550-146.570, 446.010(18)

7 STATUTORY AUTHORITY: KRS 146.550-146.570

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.560(2) requires the board to
9 promulgate administrative regulations necessary for application for funds from the agencies
10 identified in KRS 146.570, review and approval of proposed projects, and review and approval of
11 grants. It also requires the board to promulgate administrative regulations on land acquisition. This
12 administrative regulation defines terms used in 418 KAR Chapter 1.

13 Section 1. Definitions.

14 (1) "Access land" means land necessary for reasonable and planned ingress and egress from
15 the project site.

16 (2) "Acquisition" means the procurement of land and includes options, appraisals, maps,
17 surveys, title opinions, title insurance and environmental audits, and inspections [~~—and~~
18 ~~remediation~~].

19 (3) "Areas important to migratory birds" means those areas important to the reproduction
20 and survival of migratory birds, including:

21 (a) Large tracts of contiguous forest;

(b) Wooded greenspace areas;

(c) Shallow open water habitats with expansive areas of shoreline;

(d) Wetlands or wetland complexes including marshes, deep water sloughs, and swamps;

(e) Natural grasslands; and

(f) Riparian corridors.

(4) "Board" means the Kentucky Heritage Land Conservation Fund Board.

(5) "Buffer land" means land that will aid in protecting the project site from harm, or will prevent degradation of the visitor experience at the project site.

(6) "Chair" means the chairperson of the board.

(7) "Dollar for dollar" means that for every Kentucky Heritage Land Conservation Fund dollar granted by the Board, the applicant shall spend an equal amount, and that the applicant shall place all matching funds in one lump sum into escrow at the Board's direction.

(8) "Fund" means the Kentucky Heritage Land Conservation Fund.

(9) ~~[(8)]~~ "Grant" means an award of money from the Kentucky Heritage Land Conservation Fund pursuant to KRS 146.570(4)(f).

(10) ~~[(9)]~~ "Greenspace" means undeveloped land in or around urban areas, including forests or other natural vegetation, stream-side corridors, natural areas, and abandoned rights-of-way.

(11) ~~[(10)]~~ "Local governments" means county governments, municipalities, school districts, and special districts, or a combination thereof.

(12) ~~[(11)]~~ "Management" means the stewardship necessary to fulfill the purposes of KRS 146.550 through 146.570 and 418 KAR Chapter 1 and encompasses site development costs and

1 reasonable operating costs, consultant and contractor fees, facility development, supplies,
2 materials, site-specific equipment, and staff costs.

3 (13) [~~(12)~~] "Natural area" means any area of land or water, or of both land and water,
4 which:

5 (a) Retains or has reestablished in the judgment of the board its natural character;

6 (b) Has natural flora or fauna; or

7 (c) Has biological [~~Hasbiological~~], ecological, geological, scenic, or archaeological features
8 of scientific, aesthetic, cultural, or educational interest to the public.

9 (14) [~~(13)~~] "Natural functions" means the interrelationships among the living and nonliving
10 components of ecosystems and includes:

11 (a) Energy fixation and conversions;

12 (b) Ecosystem productivity and biomass accumulation;

13 (c) Nutrient cycling;

14 (d) Storage, transport, release, and retention of water and other nutrients;

15 (e) Food web relationships and dynamics;

16 (f) Weathering, development, and stabilization of substrates; and

17 (g) Absorption and neutralization of pollutants.

18 (15) [~~(14)~~] "Natural state" means the condition of any area which retains, has substantially
19 reestablished, or is in the process of reestablishing, an indigenous ecosystem.

20 (16) [~~(15)~~] "Outdoor recreation" means activity on a subject property that does not cause
21 harm to the property or its natural state, or hinder the heritage land conservation purposes of KRS
22 146.550 through 146.570.

1 (17) Private, nonprofit land trust organization” or “LTO” means a group with Internal
2 Revenue Code 501(c)(3) status qualified to hold land and easements for land conservation
3 purposes.

4 (18) [(16)] "RMP" means resource management plan.

5 (19) [(17)] "State agency" means any department, program cabinet, institution, board,
6 commission, office, or agency of the Commonwealth of Kentucky.

7 (20) [(18)] "State colleges and universities" means accredited colleges and universities
8 located in the Commonwealth of Kentucky.

418 KAR 1:010 approved for filing.
Pages (1-4)

8/14/02
Date

Leonard K. Peters
Leonard K. Peters, Secretary
Energy and Environment Cabinet

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on July 25, 2013 at 10:00 A.M. (Eastern Time) at Conference Room D-16 of the Department for Natural Resources at #2 Hudson Hollow, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing July 18, 2013, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until July 31, 2013. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

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REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation No.: 418 KAR 1:010

Contact Person: Michael Mullins, Regulation Coordinator

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation defines terms used in 418 KAR Chapter 1.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to provide terms for the proper understanding of the chapter.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 146.560(2) requires the board to promulgate administrative regulations necessary for application for funds, review and approval of proposed projects, and review and approval of grants. This administrative regulation provides definitions for those purposes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation defines terms that will assist in the proper understanding of the meaning of the administrative regulations in 418 KAR Chapter 1.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment introduces new terms and amends current definitions in order to comply with the changes to the Heritage Land Conservation Fund program introduced by House Bill 281.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to insert new definitions and amendments to existing definitions related to the passage of House Bill 281.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment inserts new definitions and amends current definitions related to private and nonprofit land trust organizations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is necessary to introduce terms that are related to the changes to KRS 146.560 by House Bill 281.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will impact private, nonprofit land trust organizations that are interested in applying for grants from the Heritage Land Conservation Fund.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This amendment simply introduces new terms and amends current definitions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will not cost the regulated entity an additional amount to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The regulated entity will benefit from a proper understanding of the terms used in 418 KAR Chapter 1.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This amendment will not cost the administrative body additional funds to implement.

(b) On a continuing basis: This amendment will not cost the administrative body additional funds to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This program is funded from the Heritage Land Conservation Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will not be a need to increase fees or funding to administer the amendments to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation will not increase nor does it establish any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) No. All applicants for grant funding will be treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 418 KAR 1:010

Contact Person: Michael Mullins, Regulation Coordinator

Phone number: (502) 564-6940

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Division of Technical and Administrative Support, the Heritage Land Conservation Fund Board and those agencies listed in KRS 146.570(4).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 146.550 through 146.570.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not generate funds for use by the cabinet.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This new administrative regulation will not generate funds for use by the cabinet on a continuing basis.

(c) How much will it cost to administer this program for the first year? There are no additional costs associated with this amendment.

(d) How much will it cost to administer this program for subsequent years? There are no additional costs associated with this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA